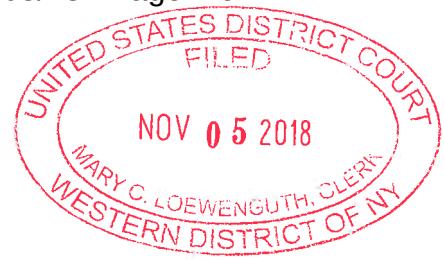


UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NEW YORK



UNITED STATES OF AMERICA,  
Plaintiff,

v.

RICHARD LEON WILBERN,  
Defendant.

ORDER

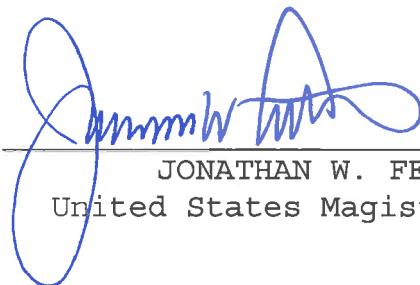
17-CR-6016  
17-CR-6017

The defendant in the above captioned cases has filed pretrial motions, including motions for the disclosure of material favorable to the defense pursuant to Brady v. Maryland, 373 U.S. 83 (1963) and its progeny. The government has disclosed that evidence critical to its case is DNA material allegedly connecting the defendant to the crimes charged. The government further disclosed that DNA material at issue in this case was delivered by the government to and tested by the Office of the Chief Medical Examiner of the City of New York ("OCME"). Part of the defendant's Brady request is disclosure of "all non-conforming events" at OCME from 2011 through 2017 involving OCME employees who performed any work on or testing of DNA that the government claims connects the defendant to the crimes charged.

Based upon the Court's review of the motion papers filed by the defense and the government's response, as well as the statements made by government counsel at the motion hearing

regarding the current custody of any "non-conforming events" data or materials, it is hereby

**ORDERED** that the defense request is granted insofar as the government shall obtain from OCME the requested "non-conforming event" data. Thereafter, the government shall make arrangements to disclose the data and materials to defense counsel. Should OCME refuse to produce to the government the data subject to his Order, government counsel shall notify the Court immediately for further action by this Court.



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JONATHAN W. FELDMAN  
United States Magistrate Judge

Dated: November 5, 2018  
Rochester, New York